March 28, 2019

To: Chair Sylvia Luke  
    Vice Chair Ty J.K. Cullen  
    House Committee on Finance

From: Cade Clark, Vice President of Government Affairs  
      Helicopter Association International

Subject: Measure: SB 1069  
         Hearing Date: March 29, 2019  
         Time: 3:30 p.m.  
         Location: Conference Room 308, State Capitol

Bill Description: Establishes a tax credit for taxpayers who install a helicopter noise-canceling technology system on a helicopter owned by the taxpayer and operated primarily within the State during the taxable year. Establishes a tour helicopter surcharge. Establishes a helicopter noise-canceling technology system special fund.

HELICOPTER ASSOCIATION INTERNATIONAL’S (HAI) POSITION: OPPOSED

Helicopter Association International (HAI) thanks the Hawaii State Legislature for removing language from the previous version of SB 1069 that sought to regulate aircraft operations, creating a violation of federal preemption.

HAI supports implementation of available helicopter quiet technology that lessens the impact of noise. However, we do not support the approach laid out in SB 1069. SB 1069 provides a tax credit for taxpayers that install helicopter noise canceling technology and contains new language to create a “Tour Helicopter Surcharge” and a “Helicopter Noise-Canceling Technology System Special Fund.”

The bill defines helicopter noise canceling technology system as “any modification or equipment that is installed onto a helicopter with the effect of reducing the amount of noise emitted from the helicopter”. This definition is ambiguous as the generally accepted phraseology to address noise mitigation is “quiet technology” since there is no current existing technology to cancel noise. The bill does not define the maximum dBA sound level and the open-ended language does not provide information on what to expect in the way of incentive or the budget impact respectively for either operator or the state.

As written, to fund the helicopter noise-canceling technology system special fund, SB 1069 would create a tour helicopter surcharge on every commercial helicopter business. This surcharge would be levied, assessed, and collected on all gross proceeds and gross income taxable.
The Anti-Head Tax Act (AHTA) 49 U.S.C. § 40116(b) states that a State, a political subdivision of a State, and any person that has purchased or leased an airport under section 47134 of this title may not levy or collect a tax, fee, head charge, or other charge on—

(1) an individual traveling in air commerce;
(2) the transportation of an individual traveling in air commerce;
(3) the sale of air transportation; or
(4) the gross receipts from that air commerce or transportation.

HAI feels that SB 1069’s tour helicopter surcharge on every commercial helicopter business is in violation of the AHTA.

Additionally, the proposed surcharge on helicopter tour flights in Hawaii is discriminatory against helicopter tour operators who would solely bare the cost of funding the helicopter noise-canceling technology system special fund; a fund available to any qualified taxpayer “who installs a helicopter noise-canceling technology system on a helicopter owned by the taxpayer and which is operated primarily within the State during the taxable year.”

Moreover, the surcharge amount or number of passengers transported within a calendar month is not defined. While the tax credit has a clear ending date, the proposed surcharge and special fund have no clear end date.

HAI appreciates the opportunity to provide additional comments on the new provisions added to SB 1069. HAI seeks to serve as a resource to the Hawaii State Legislature on issues pertaining to the helicopter industry and strives to find solutions that can address all stakeholders.

HAI is the professional trade association for the civil helicopter industry. HAI’s 1,500 plus organizational members and 1,800 individual members operate more than 4,500 helicopters approximately 2.3 million flight hours each year in 73 nations. HAI is dedicated to the promotion of the helicopter as a safe, effective business tool and to the advancement of the international helicopter community.